

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

Richard Allen Smuda,

Plaintiff,

-vs-

Leann Bertsch, Director, North Dakota  
Department of Corrections and  
Rehabilitation, in her official capacity,  
et al.,

Defendants.

Case No. 3:16-cv-335

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Pursuant to 28 U.S.C. § 636, the court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge.<sup>1</sup> The Report and Recommendation recommends that the plaintiff's motion for default judgment be denied. The plaintiff has objected to the Report and Recommendation, asserting that it is important to have the defendants correctly named in the caption and use of Maggie Anderson as a defendant in the caption of the defendants' answer is illegal.<sup>2</sup>

The court finds the recommendation in the magistrate judge's Report and Recommendation is appropriate. The clerical error in the caption noted by the plaintiff is not a basis for granting default judgment as requested by the plaintiff. The plaintiff's motion for default judgment<sup>3</sup> is **DENIED**.

**IT IS SO ORDERED.**

Dated this 20th day of September, 2017.

*/s/ Ralph R. Erickson*  
Ralph R. Erickson, District Judge  
United States District Court

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<sup>1</sup> Doc. #88.

<sup>2</sup> Doc. #85.

<sup>3</sup> Doc. #86.